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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/588,442

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Koji Korechika

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HARNESS, DICKEY & PIERCE, P.L.C.
P.O. BOX 828
BLOOMFIELD HILLS, MI 48303

EXAMINER

BROWN, DREW J

ART UNIT

PAPER NUMBER

3616

MAIL DATE

DELIVERY MODE

04/03/2009

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/588,442	Applicant(s) KORECHIKA, KOJI	
	Examiner DREW J. BROWN	Art Unit 3616	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 04 August 2006 (preliminary amendment).
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 15-30 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 15, 16, 19-23, and 27-30 is/are rejected.
- 7) ☒ Claim(s) 17, 18 and 24-26 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 05 December 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>6/28/07 & 8/4/06</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 15, 16, 27, and 28 are rejected under 35 U.S.C. 102(b) as being anticipated by Uchida (JP 01-240330).

Uchida discloses a vehicle occupant restraint device mounted on a back of an occupant's seat for restraining a shoulder of an occupant thereby to protect a body of the occupant against a motor vehicle accident (Figure 1) comprising a receiving portion (25) for receiving a shoulder side of the occupant softly, an arm portion (21), and an instantaneous turning unit (4) for moving the receiving portion, when an impact exceeding a predetermined level is applied to a vehicle, instantaneously from an initial position to a predetermined target position through the arm portion so that the receiving portion may take an arranged state or position for receiving the shoulder side of the occupant (Abstract). A rotating shaft (22) is adapted to be triggered by driving of the drive unit for instantaneously moving from the initial position to the target position, the arm portion mounted on the rotating shaft. The rotating shaft is disposed at or near an upper side end portion of the back of the seat (Figure 1) and is supported with the rotating shaft having rotate capability. The shoulder receiving portion and/or rotating shaft are returned to the initial positions so that they can be reused after an action of the vehicle occupant restraint device.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person

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having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 19 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Uchida.

Uchida discloses the claimed invention as discussed above but does not disclose that the drive unit is made of a motor or an electromagnetic actuator or that the arm portion is curved.

However, it would have been obvious to one having ordinary skill in the art to drive the rotating shaft using a motor or an electromagnetic actuator since it was old and well known in the art to use motors or electromagnetic actuators to deploy vehicle safety restraint such as knee bolsters in order to protect an occupant in the event of a collision. It would also have been an obvious matter of design choice to make the arm portion curved, since such a modification would have involved a mere change in the shape of a component. A change in shape is generally recognized as being within the level of ordinary skill in the art.

5. Claim 21 is rejected under 35 U.S.C. 103(a) as being unpatentable over Uchida in view of Fukawatase et al. (U.S. Pat. No. 6,916,042 B2).

Uchida discloses the claimed invention as discussed above but does not disclose that the shoulder receiving unit includes a support pad and a support plate for supporting the support pad, wherein the support pad is made of an elastic member. Fukawatase et al., discloses an occupant restraint that comprises a support pad (30B) and a support plate (30A) for supporting the support pad, wherein the support pad is made of an elastic member. The support pad and plate are used in a knee bolster restraint in order to provide enough resistance to the occupant's knees to prevent a collision with vehicle components arranged forward of the knee bolster, while also providing enough cushioning so the bolster itself does not injure the occupant. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to implement the support plate and pad of Fukawatase to improve the shoulder receiving unit of Uchida in a similar manner, namely, by preventing the occupant from colliding with a vehicle component arranged to the side as well as providing cushioning to absorb some of the impact between the occupant's shoulders and the shoulder receiving unit.

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6. Claims 22 and 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Uchida in view of Kamm et al. (U.S. Pat. No. 6,769,713).

Uchida discloses the claimed invention as discussed above but does not disclose that the shoulder receiving unit includes a support pad and a support plate for supporting the support pad, wherein the support pad includes a small airbag. Kamm et al., discloses an occupant restraint that comprises a support pad (15) and a support plate (5) for supporting the support pad, wherein the support pad includes a small airbag (Figure 1), and an inflator unit (11) supplies gas to the airbag. The support pad and plate are used in a knee bolster restraint in order to provide enough resistance to the occupant's knees to prevent a collision with vehicle components arranged forward of the knee bolster, while also providing enough cushioning so the bolster itself does not injure the occupant. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to implement the support plate and pad of Kamm et al. to improve the shoulder receiving unit of Uchida in a similar manner, namely, by preventing the occupant from colliding with a vehicle component arranged to the side as well as providing cushioning to absorb some of the impact between the occupant's shoulders and the shoulder receiving unit.

7. Claims 29 and 30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Uchida in view of Yokose (JP 56-160236).

Uchida discloses the claimed invention as discussed above but does not disclose that a shoulder top restraint device is mounted on one side of the back of the occupant's seat. Yokose, however, does disclose a shoulder top restraint device (20) mounted on one side of the back of the occupant's seat (Figure 1). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the invention of Uchida in view of the teachings of Yokose to have a shoulder top restraint to also prevent the occupant from colliding with the ceiling of the vehicle in an accident.

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Allowable Subject Matter

8. Claims 17, 18, and 24-26 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

9. The cited prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to DREW J. BROWN whose telephone number is (571)272-1362. The examiner can normally be reached on Monday-Thursday from 8 a.m. to 4 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Q. Nguyen can be reached on 571-272-6952. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Drew J. Brown
Examiner
Art Unit 3616

db
3/9/09
/Ruth Ilan/
Primary Examiner, Art Unit 3616